

Message

**From:** Dunn, John [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3A95618CC07745F9A4B30B3F654CD05D-DUNN, JOHN]  
**Sent:** 3/24/2022 10:56:52 AM  
**To:** Bednar, Candace [Bednar.Candace@epa.gov]; Weekley, Erin [weekley.erin@epa.gov]  
**Subject:** RE: Followup on AltEn Water Permit Monitoring and Compliance Questions - 2nd Copy

## Ex. 5 AC/DP

**From:** Bednar, Candace <Bednar.Candace@epa.gov>  
**Sent:** Wednesday, March 23, 2022 3:51 PM  
**To:** Weekley, Erin <weekley.erin@epa.gov>; Dunn, John <Dunn.John@epa.gov>  
**Subject:** FW: Followup on AltEn Water Permit Monitoring and Compliance Questions - 2nd Copy

## Ex. 5 AC/DP

**From:** Ex. 6 Personal Privacy (PP)  
**Sent:** Wednesday, March 23, 2022 3:04 PM  
**To:** Bednar, Candace <Bednar.Candace@epa.gov>; Tate, Michael <tate.michael@epa.gov>  
**Cc:** tom.buell@nebraska.gov; 'Records Ndeq' <ndeq.records@nebraska.gov>  
**Subject:** RE: Followup on AltEn Water Permit Monitoring and Compliance Questions - 2nd Copy

Ms Bednar:

Thanks for your kind reply.

I do have some additional comments which I am forwarding to you and other interested persons who are concerned about the ongoing NPDES Permit under review.

I have not looked into the referenced regulations for quite some time, but my friends and I will do so now as you suggest.

However, I do have some follow up questions that EPA and NDEE may wish to address and clarify;

1. I take your answer to mean that the public notice, hearings and comments provisions detailed in 40 CFR124.10 thru 13 **do apply** to this revision of the NPDES contrary to the statement from NDEE. It seems clear that this process is not at all the same as originally permitted, and must require full notice, hearings and comment period to approval of this permit. I believe NDEE is required to establish technology based effluent limitations and standards as described under S122.44. Certainly, widespread public concerns and questions about the water discharges from the site are not unknown to the Director, and would therefore mandate the Public Notice and Discussion. Given that the original NPDES Permit addressed cooling water discharges and disposal of treated wastewater from an operating plant cooling system and wastewater treatment system, both of which no longer exist on the AltEn site, this qualifies as a revocation and reissued NPDES Permit. Please confirm if my understanding is not correct.
2. As you have noted, land application was an approved process under the original NPDES Permit, to be done in accordance with State law and good agronomic best practices. However, I had wondered whether NDEE's role in determining whether land application is still an acceptable process overlooked the decision making requirements of the S124 you refer4enced. Does EPA R7 have any further comments on whether NDEE has met EPA criteria in that regard?
3. I understand that EPA R7 has not been provided opportunity for technical review of the new NPDES process explained to NDEE. Will you require that more information on the new wastewater treatment technology be published and evaluated by NDEE? (In particular, S122.44 appears to require that NDEE evaluate and develop

discharge limitations based on technology-proven processes and more than review of fact sheets and the like. Is this understanding not correct?

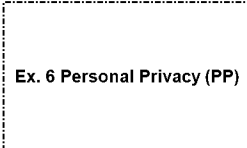
4. See comment 3. above. I understand from your response below that NDEE will not allow land application discharge of wastewater under an NPDES Permit without providing a Public Record of their evaluation of the application for reissuance of the NPDES Permit and their decision making process. I would like to understand that this public record is the same as the public notice, hearings and comment period as you pointed out are required by the regulations. Is my understanding correct on this?

Thanks again for your valuable help in answering our questions.

Regards,

Jim

Jim Boucher, P.E. (Emeritas)



**From:** Bednar, Candace <Bednar.Candace@epa.gov>

**Sent:** Tuesday, March 22, 2022 2:55 PM

**To:** Ex. 6 Personal Privacy (PP)

**Subject:** RE: Followup on AltEn Water Permit Monitoring and Compliance Questions - 2nd Copy

Thank you for contacting me. I have include a bit of your question with my response.

1. "The land application proposal meets the facility's current NPDES permit conditions and does not require a public hearing." Does EPA R7 concur?

**NDEE is authorized to implement the Clean Water Act's National Pollutant Discharge Elimination System program in Nebraska. NDEE has a primary role in assessing and ensuring compliance with its state-issued CWA NPDES permits. In that role, NDEE will determine whether the proposal meets the conditions of the NPDES permit. NDEE may determine that in certain circumstances, a public hearing may be part of the process of an NPDES permit renewal or modification. See 40 CFR 124.12. Additionally, any interested person may request a public hearing during the public comment period provided under 40 C.F.R. § 124.10. See 40 CFR 124.11. EPA regulations at 40 CFR 124.10 through 124.13 outline the public notice process, including public comments and public hearings. The details regarding notice and timing are in 40 C.F.R. § 124.10(b)(2) and 124.10(d)(2).**

**AltEn, LLC's current permit allows discharge of non-contact cooling water to surface water. Under separate state authority, the permit includes provisions allowing land application of process wastewater. The current permit is being renewed (see portal); the permit renewal is subject to the public hearing requirements described above.**

2. "NDEE has reviewed the best management practices and planned application maximums for pesticides and has found the plan meets all requirements in the facility's NPDES permit." Does EPA R7 concur?

**Land application requirements are included as part of the NPDES permit, but land application is covered under state rules and authorities. It is NDEE's role to determine whether the proposal meets the requirements of the NPDES permit.**

3. “NDEE has observed the treatment process. First, the wastewater is run through treatment equipment AltEn already had on site. The system starts by clarifying the wastewater to remove solid materials and this process is helped by adding chemicals that are commonly used in wastewater treatment. Then, the water is run through sand filters and carbon filters to remove pesticides and other contaminants. Next, the water is run through a portable treatment system brought to the site by Clean Harbors, the group’s contractor. This portable system also clarifies the water before running it through sand filters, a clay filter and carbon filters. Two written memos that describe the treatment process in more technical detail can be viewed on the agency’s [public records portal](#). These memos were filed on April 14 and May 5, and both are titled “Site Visit.” Does EPA R7 agree that NDEE has sufficient technical information to approve this process?

**EPA reviewed an early draft of the plan, but was otherwise not party to information exchanged between AFRG and the state, and is therefore not in a position to comment on the sufficiency of technical information available to NDEE.**

4. “AFRG must provide site information to the NDEE for review and approval before land application takes place. This is to ensure the treated wastewater meets proposed thresholds for the application of pesticides and meets the nutrient and soil condition requirements for each site.” Does EPA R7 concur or would ask NDEE to clarify their approval per item 2 above as meeting all requirements in light of the criteria specified in this statement?

**Land application of treated wastewater is covered by state law. EPA understands that NDEE has evaluated whether the pesticides remaining in treated wastewater can be land applied in a manner that does not adversely impact human health and/or the environment. That evaluation and the means of decision making should be made part of the public record.**

Thank you,  
Candace Bednar  
Chemical Branch Chief

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**From:** Ex. 6 Personal Privacy (PP)  
**Sent:** Friday, February 4, 2022 6:40 PM  
**To:** Bednar, Candace <[Bednar.Candace@epa.gov](mailto:Bednar.Candace@epa.gov)>; Tate, Michael <[tate.michael@epa.gov](mailto:tate.michael@epa.gov)>  
**Cc:** [thomas.buell@nebraska.gov](mailto:thomas.buell@nebraska.gov); 'Records Ndeq' <[ndeq.records@nebraska.gov](mailto:ndeq.records@nebraska.gov)>  
**Subject:** RE: Followup on AltEn Water Permit Monitoring and Compliance Questions - 2nd Copy

Friends  
I’m sending this 2<sup>nd</sup> copy to replace the original, which seemed to contain some editing clutter that should not have appeared.  
Sorry about any confusion I may have caused.  
Jim

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**From:** Ex. 6 Personal Privacy (PP)  
**Sent:** Friday, February 04, 2022 3:25 PM  
**To:** 'Bednar, Candace' <[Bednar.Candace@epa.gov](mailto:Bednar.Candace@epa.gov)>; 'Tate, Michael' <[tate.michael@epa.gov](mailto:tate.michael@epa.gov)>  
**Cc:** 'thomas.buell@nebraska.gov' <[thomas.buell@nebraska.gov](mailto:thomas.buell@nebraska.gov)>; 'Records Ndeq' <[ndeq.records@nebraska.gov](mailto:ndeq.records@nebraska.gov)>  
**Subject:** Followup on AltEn Water Permit Monitoring and Compliance Questions

Ms Bednar/Mr Tate  
I’ve attached the December 6, 2021 email from Ms Bednar addressing my questions about the monitoring of storm water discharges at the AltEn Mead site under control of the AltEn Facilities Response Group and its contractors.

In that correspondence I was assured that, with respect to the stormwater pollution controls at least, EPA R7 found that NDEE was taking actions consistent with their lead responsibilities monitoring and enforcing compliance with the applicable EPA regulations.

At that time I expressed my concern that NDEE's monitoring for compliance with the existing NPDES Permit was not assured, since the compliance team, SPCC, site characteristics, product & waste storage, exposed materials & potential pollutants, quarterly storm water samples, etc., are all materially different from the plant operating conditions of the Permit. I also raised concerns about the absence of the engineered RAP, and asked whether R7 had engaged in an engineering/technical review of the wastewater treatment technology being proposed by AFRG.

On January 18, 2021 (sic), NDEE announced on their public information web page their approval of AFRG's request to discharge treated wastewater to NE agricultural land (land application) as proposed originally on July 6, 2021. The wastewater treatment system proposed was the same as temporarily operated in June 2021 to treat some of the 150 million gallons of contaminated lagoon wastewater stored on site. The treated water effluent was processed by an assemblage of portable treatment equipment operated together with some part of the existing wastewater treatment system and delivered to a temporary storage tank. One lab test of influent and effluent treated wastewater taken in June of 2021 is apparently the basis for NDEE's acceptance of the water treatment process. As I understand it, this equipment and process no longer exist on site.

Given that 1) the original NPDES Permit did not address the pesticides issue, 2) the wastewater treatment process as existed for the original plant no longer applies, 3) the wastewater process equipment for the temporary treatment test no longer exists, 4) that no significant process testing has occurred since last June, 5) no engineered plan has been submitted and approved with engineering system descriptions and drawings for the process, please provide EPA R7 comments to the following statements from NDEE:

- 1) "The land application proposal meets the facility's current NPDES permit conditions and does not require a public hearing." **Does EPA R7 concur?**
- 2) "NDEE has reviewed the best management practices and planned application maximums for pesticides and has found the plan meets all requirements in the facility's NPDES permit." **Does EPA R7 concur?**
- 3) "NDEE has observed the treatment process. First, the wastewater is run through treatment equipment AltEn already had on site. The system starts by clarifying the wastewater to remove solid materials and this process is helped by adding chemicals that are commonly used in wastewater treatment. Then, the water is run through sand filters and carbon filters to remove pesticides and other contaminants. Next, the water is run through a portable treatment system brought to the site by Clean Harbors, the group's contractor. This portable system also clarifies the water before running it through sand filters, a clay filter and carbon filters. Two written memos that describe the treatment process in more technical detail can be viewed on the agency's [public records portal](#). These memos were filed on April 14 and May 5, and both are titled "Site Visit." **Does EPA R7 agree that NDEE has sufficient technical information to approve this process?**
- 4) "AFRG must provide site information to the NDEE for review and approval before land application takes place. This is to ensure the treated wastewater meets proposed thresholds for the application of pesticides and meets the nutrient and soil condition requirements for each site." **Does EPA R7 concur or would ask NDEE to clarify their approval per item 2 above as meeting all requirements in light of the criteria specified in this statement?**

Please let me know if I need to provide further information

Regards,

Jim

Jim Boucher, P.E. (Emeritas)

Ex. 6 Personal Privacy (PP)